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HOUSE BILL 831

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Al Park

AN ACT

RELATING TO DRUG TRAFFICKING; ENACTING THE DRUG DEALER
REGISTRATION ACT; REQUIRING PERSONS CONVICTED OF DRUG
TRAFFICKING OFFENSES TO REGISTER WITH THE COUNTY; PROVIDING FOR
A LOCAL AND CENTRAL REGISTRY; PROVIDING FOR AN EXEMPTION FROM
REGISTRATION FOR FIRST OFFENDERS WHO COOPERATE IN THE
INVESTIGATION OR PROSECUTION OF ANOTHER; PROVIDING PUBLIC
ACCESS TO INFORMATION REGARDING DRUG DEALERS; PROVIDING
PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Drug Dealer Registration Act".

Section 2. DEFINITIONS.--As used in the Drug Dealer
Registration Act:

A. "conviction" means a conviction in any court of

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1 competent jurisdiction and includes a deferred sentence, but
2 does not include a conditional discharge;

3 B. "drug dealer" means a person who has been
4 convicted of a drug offense and who:

5 (1) is a resident of New Mexico;

6 (2) changes residence to New Mexico;

7 (3) does not have an established residence in
8 New Mexico, but lives in a shelter, halfway house or
9 transitional living facility or stays in multiple locations in
10 New Mexico; or

11 (4) is a resident of another state but is:

12 (a) employed full time or part time in
13 New Mexico for a period of time exceeding fourteen days or for
14 an aggregate period of time exceeding thirty days during any
15 calendar year, including any employment or vocation, whether
16 financially compensated, volunteered or for the purpose of
17 government or educational benefit; or

18 (b) enrolled on a full-time or part-time
19 basis in a private or public school or an institution of higher
20 education in New Mexico;

21 C. "drug offense" means a conviction for the
22 unlawful trafficking of a controlled substance in violation of
23 Section 30-31-20 NMSA 1978, or in violation of a law or
24 ordinance of any jurisdiction or state of the United States or
25 of federal, tribal or military law when that law or ordinance

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1 prohibits conduct that is unlawful under the provisions of
2 Section 30-31-20 NMSA 1978;

3 D. "institution of higher education" means a:

4 (1) private or public post-secondary
5 educational institution;

6 (2) trade school; or

7 (3) professional school; and

8 E. "registration requirement" means any requirement
9 set forth in Section 3 of the Drug Dealer Registration Act that
10 requires a drug dealer to register, provide information, renew,
11 revise or change the dealer's registration information or
12 provide written notice or disclosure regarding the dealer's
13 status as a drug dealer.

14 Section 3. REGISTRATION OF DRUG DEALERS--INFORMATION
15 REQUIRED--CRIMINAL PENALTY FOR NONCOMPLIANCE.--

16 A. A drug dealer residing in this state shall
17 register with the county sheriff for the county where the drug
18 dealer resides no later than ten days after being released from
19 the custody of the corrections department, a municipal or
20 county jail or a federal, military or tribal correctional
21 facility or detention center or being placed on probation or
22 parole.

23 B. A drug dealer who changes residence to New
24 Mexico shall register with the county sheriff for the county
25 where the drug dealer resides no later than ten days after

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1 arrival in this state.

2 C. A drug dealer who is a resident of another state
3 but who is employed in New Mexico or attending public or
4 private school or an institution of higher education in New
5 Mexico shall register with the county sheriff for the county in
6 which the drug dealer is working or attending school or an
7 institution of higher education no later than ten days after
8 beginning work or school.

9 D. When a drug dealer registers with the county
10 sheriff, the drug dealer shall provide the following
11 registration information:

12 (1) legal name and any other names or aliases
13 that the drug dealer is using or has used;

14 (2) date of birth;

15 (3) social security number;

16 (4) current address and, if applicable, the
17 address of the drug dealer's place of lodging in New Mexico
18 while the drug dealer is working or attending school or an
19 institution of higher education;

20 (5) place of employment and the name of the
21 school that the drug dealer is attending, if applicable;

22 (6) the drug offense for which the drug dealer
23 was convicted; and

24 (7) the date and place of the drug offense
25 conviction.

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1 E. When a drug dealer registers with a county
2 sheriff, the sheriff shall obtain:

3 (1) a photograph of the drug dealer;

4 (2) a complete set of the drug dealer's
5 fingerprints; and

6 (3) a description of any tattoos, scars or
7 other distinguishing features on the drug dealer's body that
8 would assist in identifying the drug dealer.

9 F. When a drug dealer who is registered changes
10 residence within the same county, the drug dealer shall send
11 written notice of the change of address to the county sheriff
12 no later than ten days after establishing the new residence.

13 G. When a drug dealer who is registered changes
14 residence to a new county in New Mexico, the drug dealer shall
15 register with the county sheriff of the new county no later
16 than ten days after establishing the new residence. The drug
17 dealer shall also send written notice of the change in
18 residence to the county sheriff with whom the drug dealer last
19 registered no later than ten days after establishing the new
20 residence.

21 H. When a drug dealer who is registered or required
22 to register does not have an established residence, but lives
23 in a shelter, halfway house or transitional living facility or
24 stays in multiple locations in New Mexico, the drug dealer
25 shall register with the county sheriff for each county in which

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1 the drug dealer is living or temporarily located. The drug
2 dealer shall register no later than ten days after a change in
3 living arrangements or temporary location.

4 I. When a drug dealer who is registered or required
5 to register is employed, begins a vocation or is enrolled as a
6 student at an institution of higher education in New Mexico,
7 the drug dealer shall disclose the drug dealer's status as a
8 drug dealer in writing to the county sheriff for the county in
9 which the institution of higher education is located, to the
10 law enforcement entity responsible for the institution of
11 higher education and to the registrar for the institution of
12 higher education no later than ten days after beginning
13 employment, beginning a vocation or enrolling at the
14 institution of higher education. The drug dealer shall also
15 send written notice of any change regarding the drug dealer's
16 employment, vocation or enrollment status at an institution of
17 higher education to the county sheriff, the law enforcement
18 entity and the registrar no later than ten days after the
19 change in employment, vocation or enrollment status.

20 J. When a drug dealer who is registered or required
21 to register is employed or is enrolled as a student at a public
22 or private school in New Mexico, the drug dealer shall disclose
23 the drug dealer's status as a drug dealer in writing to the
24 county sheriff for the county in which the school is located
25 and to the principal of the school no later than ten days after

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1 enrolling at the school. The drug dealer shall also send
2 written notice of any change regarding enrollment status at a
3 school to the county sheriff and to the principal no later than
4 ten days after the change in enrollment status.

5 K. When a drug dealer who is registered or required
6 to register is employed, begins a vocation or volunteers
7 services, regardless of whether the drug dealer receives
8 payment or other compensation, the drug dealer shall disclose
9 the drug dealer's status as a drug dealer in writing to the
10 drug dealer's employer, supervisor or person similarly
11 situated. The written disclosure shall be made immediately
12 upon beginning employment, vocation or volunteer service.

13 L. Following initial registration pursuant to the
14 provisions of this section, a drug dealer shall annually renew
15 the drug dealer's registration with the county sheriff prior to
16 December 31 of each subsequent calendar year for a period of:

- 17 (1) five years for a first drug offense;
18 (2) ten years for a second drug offense; and
19 (3) the entirety of the drug dealer's natural
20 life for a third or subsequent drug offense.

21 M. A drug dealer who willfully or knowingly fails
22 to comply with the registration requirements set forth in this
23 section or who willfully or knowingly provides false
24 information when complying with the registration requirements
25 of this section is guilty of a fourth degree felony and shall

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1 be sentenced pursuant to the provisions of Section 31-18-15
2 NMSA 1978. A conviction pursuant to this subsection shall not
3 be considered a felony for purposes of the imposition of
4 sentencing enhancements pursuant to the provisions of Section
5 31-18-17 NMSA 1978.

6 Section 4. PROCEDURES WHEN A DRUG DEALER MOVES FROM NEW
7 MEXICO TO ANOTHER STATE.--

8 A. If a drug dealer intends to move from New Mexico
9 to another state, no later than thirty days prior to moving to
10 the other state, the drug dealer shall:

11 (1) notify the county sheriff of the county
12 where the drug dealer resides that the drug dealer is moving to
13 the other state; and

14 (2) provide the county sheriff with a written
15 notice that identifies the state to which the drug dealer is
16 moving.

17 B. Within five days of receiving a drug dealer's
18 written notice of intent to move to another state, the county
19 sheriff shall transmit that information to the department of
20 public safety. Within five days of receiving that information
21 from a county sheriff, the department shall contact the state
22 agency, if any, responsible for registering drug dealers in the
23 state to which the drug dealer is moving. The department shall
24 provide that state agency with registration information
25 regarding the drug dealer and shall obtain information

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1 regarding registration requirements, if any, for drug dealers
2 in the state to which the drug dealer is moving. The
3 department shall provide the drug dealer with written
4 notification of the registration requirements, if any, in the
5 state to which the drug dealer is moving.

6 C. A drug dealer who willfully fails to comply with
7 the requirements set forth in this section is guilty of a
8 fourth degree felony and shall be sentenced pursuant to the
9 provisions of Section 31-18-15 NMSA 1978.

10 Section 5. NOTICE TO DRUG DEALERS OF DUTY TO REGISTER.--

11 A. A court shall provide a drug dealer convicted in
12 that court with written notice of the drug dealer's duty to
13 register pursuant to the provisions of the Drug Dealer
14 Registration Act and Subsection C of this section. The written
15 notice shall be included in judgment and sentence forms
16 provided to the drug dealer.

17 B. The corrections department, a municipal or
18 county jail or a detention center shall provide a drug dealer
19 with written notice of the drug dealer's duty to register at
20 the time of release of a drug dealer in its custody, pursuant
21 to the provisions of the Drug Dealer Registration Act and
22 Subsection C of this section.

23 C. The written notice shall inform the drug dealer
24 that, pursuant to the Drug Dealer Registration Act, the drug
25 dealer is required to do the following:

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1 (1) register with the county sheriff for the
2 county in which the drug dealer will reside or, if the drug
3 dealer will not have an established residence, with the county
4 sheriff for each county in which the drug dealer will live or
5 temporarily be located;

6 (2) report subsequent changes of address;

7 (3) notify the county sheriff of the county in
8 which the drug dealer resides if the drug dealer intends to
9 move to another state and that the drug dealer may be required
10 to register in the other state;

11 (4) disclose status as a drug dealer in
12 writing when the drug dealer begins employment or vocation or
13 enrolls as a student at an institution of higher education in
14 New Mexico to the county sheriff for the county in which the
15 institution of higher education is located and to the law
16 enforcement entity and registrar for the institution of higher
17 education;

18 (5) provide written notice of any change
19 regarding employment, vocation or enrollment status at an
20 institution of higher education to the county sheriff, the law
21 enforcement entity and the registrar;

22 (6) disclose status as a drug dealer in
23 writing when the drug dealer enrolls as a student at a private
24 or public school in New Mexico to the county sheriff for the
25 county in which the school is located and to the principal of

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1 the school;

2 (7) provide written notice of any change
3 regarding the drug dealer's enrollment status at a public or
4 private school in New Mexico to the county sheriff and to the
5 principal of the school;

6 (8) disclose status as a drug dealer in
7 writing to the drug dealer's employer, supervisor or other
8 person similarly situated, when the drug dealer begins
9 employment, begins a vocation or volunteers services,
10 regardless of whether the drug dealer receives payment or other
11 compensation; and

12 (9) read and sign a form that indicates that
13 the drug dealer has received the written notice and that:

14 (a) a responsible court official,
15 designated by the chief judge for that judicial district, has
16 explained the written notice to the drug dealer; or

17 (b) a responsible corrections department
18 official, designated by the secretary of corrections, or a
19 responsible municipal or county jail official or detention
20 center official has explained the written notice to the drug
21 dealer.

22 D. A court, the corrections department, a municipal
23 or county jail or a detention center shall also provide written
24 notification regarding a drug dealer's release to the sheriff
25 of the county in which the drug dealer is released and to the

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1 department of public safety.

2 E. The department of public safety, when notified
3 by officials from another state that a drug dealer will be
4 establishing residence in New Mexico, shall provide written
5 notice to the drug dealer of the duty to register pursuant to
6 the provisions of the Drug Dealer Registration Act.

7 Section 6. EXEMPTION FROM REGISTRATION FOR COOPERATION IN
8 INVESTIGATION OR PROSECUTION OF A CRIME.--A drug dealer who is
9 convicted of a drug offense for the first time is exempt from
10 the registration requirements set forth in the Drug Dealer
11 Registration Act if the drug dealer offers substantial
12 assistance in the investigation or prosecution of another
13 person who has committed an offense. A law enforcement agency
14 or a prosecuting authority in this state shall authorize the
15 exemption from registration but may revoke the exemption if the
16 drug dealer ceases to actively cooperate in the investigation
17 or prosecution.

18 Section 7. LOCAL REGISTRY--CENTRAL REGISTRY--
19 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--RULES.--

20 A. A county sheriff shall maintain a local registry
21 of drug dealers in the county who are required to register
22 pursuant to the provisions of the Drug Dealer Registration Act.

23 B. A county sheriff shall forward to the department
24 of public safety initial registration information and any new
25 registration information subsequently obtained from a drug

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1 dealer no later than ten working days after the information is
2 obtained from a drug dealer. If the department of public
3 safety receives information regarding a drug dealer from a
4 governmental entity other than a county sheriff, the department
5 shall send that information to the sheriff for the county in
6 which the drug dealer resides.

7 C. The department of public safety shall maintain a
8 central registry of drug dealers required to register pursuant
9 to the provisions of the Drug Dealer Registration Act. The
10 department shall retain registration information regarding a
11 drug dealer for the following periods of time:

12 (1) five years for a drug dealer convicted of
13 one drug offense;

14 (2) ten years for a drug dealer convicted of
15 two drug offenses; and

16 (3) the entirety of the drug dealer's natural
17 life for a drug dealer convicted of three or more offenses.

18 D. The department of public safety shall adopt
19 rules as necessary to carry out the provisions of the Drug
20 Dealer Registration Act.

21 Section 8. PUBLIC ACCESS TO INFORMATION ON DRUG DEALERS--
22 COMMUNITY NOTIFICATION--INTERNET WEB SITE.--

23 A. A county sheriff shall forward registration
24 information obtained from a drug dealer to the district
25 attorney for the judicial district in which the drug dealer

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1 resides and, if the drug dealer is a resident of a
2 municipality, the chief law enforcement officer for the
3 municipality in which the drug dealer resides.

4 B. A person who wants to obtain registration
5 information regarding a drug dealer may request that
6 information from the:

7 (1) sheriff for the county in which the drug
8 dealer resides;

9 (2) chief law enforcement officer for the
10 municipality in which the drug dealer resides;

11 (3) district attorney for the judicial
12 district in which the drug dealer resides; or

13 (4) secretary of public safety.

14 C. Upon receiving a request for registration
15 information regarding a drug dealer, a county sheriff, chief
16 municipal law enforcement officer, district attorney or the
17 secretary of public safety shall provide that registration
18 information, with the exception of a drug dealer's social
19 security number, within a reasonable period of time but no
20 later than seven days after receiving the request.

21 D. Within seven days of receiving registration
22 information from a drug dealer, the county sheriff shall
23 contact every elementary school, middle school and high school
24 within a one-mile radius of the drug dealer's residence and
25 provide them with the drug dealer's registration information,

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1 with the exception of the drug dealer's social security number.

2 E. The department of public safety shall establish
3 and manage an internet web site that provides the public with
4 registration information regarding drug dealers, except that
5 the department of public safety shall not provide registration
6 information on the internet web site regarding a drug dealer
7 who was less than eighteen years of age when the drug dealer
8 committed the drug offense for which the drug dealer was
9 adjudicated unless, at the time of sentencing, the court made a
10 finding that the drug dealer is not amenable to treatment and
11 is a danger to the community. The registration information
12 provided to the public pursuant to this subsection shall not
13 include a drug dealer's social security number or a drug
14 dealer's place of employment, unless the drug dealer's
15 employment requires the drug dealer to have direct contact with
16 children or youth.

17 Section 9. IMMUNITY.--Nothing in the Drug Dealer
18 Registration Act creates a cause of action on behalf of a
19 person against a public employer, public employee or public
20 agency responsible for enforcement of the provisions of that
21 act, so long as the public employer, public employee or public
22 agency complies with the provisions of that act.

23 Section 10. SEVERABILITY.--If any part or application of
24 the Drug Dealer Registration Act is held invalid, the remainder
25 of that act and its application to other situations or persons

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1 shall not be affected.

2 Section 11. APPLICABILITY.--The provisions of this act
3 apply to a person who committed a drug offense on or after July
4 1, 2007.

5 Section 12. EFFECTIVE DATE.--The effective date of the
6 provisions of this act is July 1, 2007.

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